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| 10/825,936      | 04/16/2004  | Zafer Termanini      | 03217.002000        | 9032             |

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EXAMINER

WIEKER, AMANDA FLYNN

ART UNIT PAPER NUMBER

3743

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/825,936

Applicant(s)

TERMANINI, ZAFER

Examiner

Amanda F. Wieker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/4/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Information Disclosure Statement*

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### *Priority*

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Specification*

3. The abstract of the disclosure is objected to because the phrase "The disclosure related to" can be inferred and should be deleted. Correction is required. See MPEP § 608.01(b).

### *Claim Objections*

4. Claims 4 and 27 are objected to because of the following informalities:

In claim 4, there is insufficient antecedent basis for "the water-laden gel". It appears that claim 4 should depend from claim --2--, to solve this defect. The claim is being examined as if claim 4 depended from claim 2, instead of claim 3 as written.

In claims 24 and 27, there is insufficient antecedent basis for "the gel container". It appears that claims 24 and 27 should depend from claim --18--, to solve this defect. The claim is being examined as if claims 24 and 27 depended from claim 18, instead of claim 17 as written.

Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, 6-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 4,537,184 to Williams, Jr.

Regarding claim 1 Williams, Jr. discloses an integrated orthopedic bandage system comprising:

a) a water-curable orthopedic casting material (14), which is in the form of a splint, and

b) a container (16) including water that is removable from said container.

Regarding claim 3, the casting material is in a flat arrangement (see Figures).

Regarding claim 6, the orthopedic casting material is protected with a protective sleeve (12).

Regarding claim 7, the container (16) is anchored to the sleeve.

Regarding claim 8, there is some degree of adhesion (at least frictional adhesion) of the container (16) to the casting material (14).

Regarding claim 9, the protective sleeve is water-resistant (polyethylene).

Regarding claim 11, the system further comprises an outer package (12) that encloses the water-curable orthopedic casting material (14) and the container (16).

The container (16) is in fluid communication with the orthopedic casting material (14).

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The container (16) is provided with opening means (rupturable) operable to permit the release of water therefrom and into contact with the orthopedic casting material.

The casting material includes a water-curable resin, specifically, polyurethane.

The container is a flat long pouch (16).

*Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 4, 12, 16-20, 24 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams, Jr. in view of U.S. Patent Number 5,713,838 to Termanini.

Williams, Jr. discloses the previously described bandage system comprising a water-curable casting material (14) in the form of a splint, and a container (16) including water, which is removable from the container. Williams, Jr. specifies that the liquid with the container (16) be able to cure the resin impregnated in the casting material (14). Williams, Jr. does not specify that the liquid within the container be a water-laden gel.

Termanini discloses a water-curable casting material (1) that can be applied to a patient's limb as a splint. Termanini specifies that the liquid used to cure the water-curable casting material be a water-laden gel, wherein the gel is less messy than conventional free-flowing water. Termanini specifies that the gel may include hydroxymethyl cellulose, hydroxypropyl cellulose, acrylates, or polyglycols. Termanini also specifies that hardeners or accelerators like starch and thickeners may be used (col. 3, lines 21-22).

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It would have been obvious to one skilled in the art at the time the invention was made to have provided the bandage comprising a water-curable casting material and container including water, disclosed by Williams, Jr., wherein the container including water includes a water-laden gel, as taught by Termanini, to provide a less messy bandage application.

The claimed method of curing a water-curable orthopedic casting material is made obvious by the normal use of the previously disclosed device by Williams, Jr. in view of Termanini, which discloses applying an effective amount of water to an orthopedic material to be cured, wherein the water is in the form of a water-laden gel.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams, Jr. in view of U.S. Patent Number 4,899,738 to Parker.

Williams, Jr. discloses the previously described bandage system comprising a water-curable casting material (14) in the form of a splint, and a container (16) including water, which is removable from the container. Williams, Jr. discloses a water-resistant protective sleeve (12) surrounding the casting material. Williams, Jr. does not specify that the protective sleeve and casting material be contained in a padding sleeve.

Parker discloses a bandage system comprising a moisture-curable casting material. Parker specifies that the casting material be contained in a cushioned padding sleeve, overlying both sides of the casting material, so that either side of the bandage may be placed next to the skin of the user (see claim 1).

It would have been obvious to one skilled in the art at the time the invention was made to have provided the bandage disclosed by Williams, Jr., wherein the casting material is contained in a cushioned padding sleeve, as taught by Parker, so that either side of the bandage may be placed next to the skin of the user.

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10. Claims 13-15 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams, Jr. in view of U.S. Patent Number 4,928,678 to Grim.

Williams, Jr. discloses the previously described bandage system comprising a water-curable casting material (14) in the form of a splint, and a container (16) including water.

Williams, Jr. discloses that the water-curable resin is polyurethane. Williams, Jr. does not specify that the casting material be fiberglass.

Grim discloses a bandage system comprising a water-curable casting material (24) in the form of a splint. Grim specifies that the casting material comprise fiberglass, and include a water-curable resin, such as urethane polymer (polyurethane), to provide a hardenable splint.

It would have been obvious to one skilled in the art at the time the invention was made to have provided the bandage disclosed by Williams, Jr., wherein the casting material is fiberglass impregnated with polyurethane, as taught by Grim, to provide a hardenable splint.

11. Claims 5 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams, Jr. in view of Termanini, and in view of U.S. Patent Number 3,797,493 to Saudek.

Williams, Jr. in view of Termanini disclose the previously described bandage system comprising a water-curable casting material (14) in the form of a splint, and a container (16) including water, which is removable from the container, wherein the water in the container is a water-laden gel. Williams, Jr. specifies that the container (16) be provided with opening means to permit the release of water therefrom and into contact with the orthopedic casting material. Williams, Jr. does not specify that the opening means be a string.

Saudek disclose a container including a gelled pharmaceutical material, wherein the container is provided with opening means to permit the release of gel therefrom. Saudek disclosed that the opening means is a string, which is secured to the container so that when

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pulled it ruptures the container to expose the gel contained in the gel container, to allow a clean and antiseptic release of gel.

It would have been obvious to one skilled in the art at the time the invention was made to have provided the bandage disclosed by Williams, Jr. in view of Termanini, wherein the opening means of the container comprises a string, as taught by Saudek, to allow clean release of gel. The claimed method would be made obvious by the normal use of the device disclosed by Williams, Jr. in view of Termanini, and in view Saudek.

It is further noted that Applicant has acknowledged on the record (Specification page 5) the exchangeability of opening means that are in the form of either a tear string as disclosed by Saudek, or as a rupturable container, such as that disclosed by Williams, Jr.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda F. Wiekert whose telephone number is 571-272-4794. The examiner can normally be reached on Monday-Thursday, 7:30 - 5:00 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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afw

Amanda F. Wiekert  
Examiner  
Art Unit 3743

*[Signature]*  
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